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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13440-2019

Date of Decision: 22.07.2025

JAGDISH CHANDER

..... PETITIONER

VERSUS

MAHARSHI DAYANAND UNIVERSITY, ROHTAK AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Dr. S. K. Redhu, Advocate
for the petitioner.

Mr. S.P. Arora, Advocate
for respondents no. 1 and 2.

TRIBHUVAN DAHIYA, J. (ORAL)

At the very outset, learned counsel for the petitioner does not press the prayer for quashing of office orders dated 31.05.2004, 12.10.2004 and 18.11.2004, Annexures P-11, P-12 and P-13, respectively. The only prayer being pressed is, to issue a writ of *mandamus* directing the respondents to regularise the petitioner in service from the date his juniors have been regularised.

2. Learned counsel contended that the petitioner was appointed as Common Room Attendant in University Hostel on contract basis on 03.08.1989. However, his services were terminated on 08.09.1997. The termination was challenged before Industrial Tribunal-cum-Labour Court,

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Rohtak, by way of reference dated 25.07.2000. The Labour Court passed an award in his favour, dated 05.04.2000, ordering reinstatement with continuity of service. The relief granted was in the following terms:

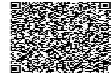
12. ...In view of my finding on the foregoing issues, I conclude to hold that service of the petitioner has been terminated illegally. Therefore, he is entitled to re-instated on his previous post with continuity of service with 50% back wages from the date of reference i.e. from 25.07.2000 because no date has been given by the petitioner on the demand notice. In this way, this reference is answered accordingly.

Pursuant thereto, the petitioner was taken back in service by the University, and has been working ever since as Class-D employee. Despite having served in the University for over three decades, his case has not been considered for regularisation. This is despite the fact that his junior Rajender Kumar, who was appointed as Sweeper/Class-D employee on *ad hoc* basis on 31.01.1991, has already been regularised with effect from 09.07.1999, vide office order dated 05.11.1999, Annexure P-8. The petitioner's representation seeking regularisation remained unanswered, which is arbitrary.

3. Learned counsel for the respondents/University contends that said Rajender Kumar has been appointed against a sanctioned post whereas the petitioner is working on contractual basis, therefore, he cannot seek parity with the former.

4. Heard.

5. The undisputed facts on record are, the petitioner has been appointed as Common Room Attendant on contract basis on 03.08.1989. The termination of his service from 08.09.1997 was set aside by the Labour

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Court vide award dated 05.04.2000, granting him reinstatement with continuity of service and fifty per cent back wages. Accordingly, after reinstatement the petitioner is deemed to be in service from 03.08.1989. And his being in service for over three decades itself shows that the University requires services of Common Room Attendant. Therefore, he cannot be denied regularisation for want of sanctioned post. Even if he was not appointed against sanctioned post initially, it cannot be a ground to deny regularisation at the fag end of his career. It is apt to refer to the law laid down by the Division Bench on the issue in *State of Punjab and others v. Sarwan Ram and others* in LPA 2032-2024, which is as under:

22(7) We may also deal with the argument raised by the learned counsel for the appellants that the directions given by the learned Single Judge in Para No. 47 amount to creation of the posts. Suffice to say that before coming to the conclusion as indicated in Para No. 47 of the judgment of the learned Single Judge, an extensive discussion and issue wise finding have been recorded by the learned Single Judge and, thus, it has been held that though the Court cannot ask the State to create or sanction post(s), yet the respondents (writ petitioners) cannot be denied the benefit of regularization on the ground of lack of sanctioned post(s) or minimum educational qualification...

Besides, once the petitioner's junior has been regularised with effect from 09.07.1999, denying the same relief to him is discriminatory and cannot be countenanced.

6. In view thereof, the petition is allowed. The University is directed to regularise the petitioner's service as Common Room Attendant with effect from 09.07.1999 and release him all due benefits, including



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salary, in terms thereof; arrears will be paid with interest at the rate of six per cent per annum from the due date till actual payment. These directions shall be carried out within a period of four weeks of receiving a certified copy of this order.

22.07.2025
Sima

(TRIBHUVAN DAHIYA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>